

EXHIBIT G

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April 8, 1997

Honorable Morris Westfall
Senator, State of Missouri
Missouri State Capitol
201 W. Capital Ave., Room 220
Jefferson City, Mo. 65101-1556

Dear Senator Westfall:

As a person who respects and believes in the tried and true system of free enterprise, which has given us the strongest economy of any country in the world and sets us apart from those nations which have permitted, in varying degrees, the involvement of their governments in running businesses, from farming to industry, I trust that you will continue to be supportive of the system which has been so very good to our citizens, fair to our businesses and industries, and healthy for our country.

It is puzzling to me how any part or extension of our government can feel that it is appropriate to enter into competition with existing businesses in its community or with businesses which want to come into and compete in its community in an area of the market place where multiple private companies, but for the threat of competition from the government, want to invest and do business. Unfortunately, this is the climate which has been created in Springfield with our publicly owned utility entering the telecommunications field. It is so very difficult for private companies to maintain an interest in competing with a company which owns the right-of-way in which it must locate the skeleton of its infra-structure and the poles for which it must negotiate "pole attachment agreements". Brooks Fiber, which almost a year ago announced its intention to enter the telecommunications business in Springfield, spent from July, 1996, until mid-February, 1997, trying to get a pole attachment agreement out of City Utilities. Their local representatives were so discouraged by the delay tactics of City Utilities that, had it been left to their decision, they would have given up and left Springfield. Brooks Fiber plans to invest \$20,000,000.00 in Springfield and this investment, although substantially delayed, was almost lost.

The investments which Brooks Fiber and other privately owned companies want

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to make in our community will enhance our tax base, which in turn will increase tax revenues to our schools, Art Museum, libraries and all of the functions and services which our government provides to its citizens. On the other hand, City Utilities pays no taxes, but only a percentage of its sales of electricity and gas. Hence, no services to our citizens would be increased by City Utilities' revenue from the leasing of its fiber optics.

It is equally troubling to consider the very unlevel playing field created by City Utilities' entry into this business:

1. Privately owned companies have to make a profit for their investors. City Utilities does not.
2. Privately owned companies have to pay real and personal property taxes. City Utilities does not.
3. Privately owned companies have to pay income taxes. City Utilities does not.
4. Privately owned companies which invest millions of dollars in fiber optic systems and equipment are forced to compete against City Utilities' lessees, which make no investment in the community and only pay rent to City Utilities. These companies can fold their tents and be out of town virtually overnight, if things do not work out as perfectly as they planned.
5. Private companies must compete with a governmental entity which, in part, regulates or controls their business.

Finally, there is the matter of "reputation". As I drove past City Utilities Credit Union yesterday morning and read the message on their marquee, advertising their home equity loans, I wondered to myself just how many more areas of private enterprise that this governmental entity might invade. They are in the child care business (Uptown Kids Childcare Center), the real estate development business (an Industrial Park), the banking business (their credit union), and now the telecommunications business. I am indeed fearful that other cities, competing with us in trying to capture future business

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and industry prospects, may well refer to us as "Springfield, Missouri, where government never hesitates to compete with its own private citizens or its corporate community". You can imagine how such a reputation could have a very chilling effect on our ability to woo new businesses and industry.

Just last week City Utilities adopted a business plan which, they told the public, was limiting their entry into the fiber optics business to four areas, educational, governmental, health care, and their own utility business. However, the fifth area in which they propose to do business is designated "other purposes". When you read the "other purposes" section you will obviously recognize that City Utilities has not limited its intended intrusion into this business at all but in fact has left the door open for it to do whatever it wants to do at any time in the future that it so desires. I have enclosed a copy of the business plan for your review.

If City Utilities is sincere in agreeing to limit its entry into this business to the four areas of governmental, educational, health care and utility, as it so informed the public, then it should have no difficulty in supporting House Bill 620 and it should be encouraging you to do likewise.

I sincerely hope that you will cast your vote for the free enterprise system when you consider House Bill 620. I am confident that the overwhelming majority of the citizens in this part of the State do not want government getting any further into their lives, their pocketbooks, or in competing with their businesses any more than it already has.

Best wishes and thank you for continuing to be a great servant of the people of Southwest Missouri.

Very truly yours,

Leland L. Gannaway

LLG:ln

EXHIBIT H

CU abusing power,

The utility company denies it used inside information to underbid Southwestern Bell.

By Tamiya Kallios
and Ron Sylvester
News-Leader

Mayor Lee Gannaway on Wednesday accused City Utilities of abusing its authority by undercutting Southwestern Bell in order to lure a customer to CU's fiber-optics network.

A Bell spokesman said CU used its control of public utility poles to learn details of a proposed deal with St. John's Regional Health Center less than two weeks ago. On Monday, the hospital postponed accepting a Bell contract to pursue a CU plan.

CU officials denied having any knowledge that would provide an edge amid growing competition in Springfield's telecommunications market.

But Gannaway, who opposes CU involvement in telecommunications, said the utility had opportunity to take unfair advantages.

"CU has been privy to all these negotiations," Gannaway said. "They knew every detail about it — what Bell was charging. All they had to do was undercut them on the price."

CU Assistant General Manager Gerald Lee and CU board member

Dan Chiles denied the accusation.

"I'm not privy to any kind of skulduggery or anything underhanded," Chiles said of the negotiations with St. John's. Chiles has been a vocal advocate of CU's venture into the telecommunications business.

But Mark Walker of Southwestern Bell said CU had been involved in a meeting between his company and St. John's staff less than two weeks ago.

Bell's proposal to build a fiber-optics link between St. John's main hospital on East Cherokee Street and an office building on East Portland Street involved running a line over some CU-owned utility poles.

That brought CU operations manager Bill Burks and telecommunica-

mayor says



Gannaway



Chiles

St. John's called Monday to cancel while considering a CU proposal.

"The mere fact they were doing the project is enough to show how you can be dealing with one side of the utility for public access, and to have the other side making their own proposal puts us at a competitive disadvantage," said Walker.

For Walker, the incident bolsters Southwestern Bell's support of a state bill that could prevent utilities from competing in the telecommunications industry.

But CU's Lee said he spoke with Burks Wednesday evening and said Bell's pricing never came up.

tions manager Todd Murren to the table with Bell and St. John's.

St. John's spokesman Mike Peters said the hospital signed a letter of intent to do business with Bell, contingent on receiving a contract.

Walker said Bell had set a meeting Tuesday to present that contract, but

See CU, Page 5A

CU/ St. Louis firm signs deal

Continued from 1A

"We were never aware of what Southwestern Bell was charging," Lee said. "We're not dealing with somebody charging X, so we're charging X-minus. We got a request from St. John's, and what we're charging is based on our costs."

Lee said CU did know what Bell had filed with the Public Service Commission.

"We only knew about Southwestern Bell's billing practices through tariff information they filed, which is public information," he said.

Peters said St. John's was negotiating with Southwestern Bell, CU and at least two other providers.

"We're discussing a variety of options to meet our needs," Peters said. "Nothing has been decided."

The incident is the latest in a controversial stream of events since CU

decided to lease out its fiber-optics network in competition with private companies, launched by the 1996 federal Telecommunications Act.

Telephone companies, led by Southwestern Bell, began fighting against the utilities company.

The city of Springfield next raised the ire of such companies as AT&T and MCI by proposing to charge them for use of the city's public rights of way needed for telecommunications networks.

Gannaway further accused CU of unfairly prolonging negotiations to lease pole space to another telecommunications company, Brooks Fiber, in order to stall potential competition from the St. Louis firm.

"The longer they can keep them out, the more opportunities CU has to lease its fiber," Gannaway said.

Lee said that's not an issue: CU reached a pole-lease agreement with

Brooks Fiber nearly two weeks ago. Mark Ritter, spokesman for Brooks Fiber, confirmed the signing Wednesday afternoon.

Gannaway said that's news to him. The last time he spoke to anyone from CU, about two weeks ago, no agreement had been reached.

"They'd only been negotiating since July," he said.

CU board member Chiles said Bell is the one posing unfair competition, because of a longtime, federally funded monopoly that ended with last year's Telecommunications Act passed by Congress.

"Bell has been using thousands of utility poles for years and paid absolutely nothing," Chiles said.

"It has been around for a hundred years, developing the latest technology, compared to a utility company that has only had a fiber-optics network for two years."

EXHIBIT I

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the matter of the application of the)
City of Springfield, Missouri, through)
the Board of Public Utilities, for a)
certificate of service authority to provide)
non-switched local exchange and intrastate)
interexchange telecommunications services)
to the public within the State of Missouri)
and for competitive classification.)

Case No. TA-97-313

APPLICATION

Comes now the City of Springfield, Missouri, through the Board of Public Utilities (hereinafter "Applicant" or "City Utilities"), pursuant to Article XVI of the City Charter of the City of Springfield, Missouri, Sections 392.361, 392.420, 392.440 RSMo 1994, Section 392.410 RSMo Supp. 1996, and 4 CSR 240-2.060(4), and files this verified application requesting that the Missouri Public Service Commission (hereinafter "the Commission") issue an order that:

- (a) grants Applicant a certificate of service authority to provide non-switched local exchange and intrastate interexchange telecommunications services pursuant to Chapter 392 RSMo;
- (b) grants competitive status to Applicant and Applicant's requested services; and
- (c) waives certain Commission rules and statutory provisions pursuant to Sections 392.420 and 392.361 RSMo 1994, consistent with the Commission's past treatment of other certificated providers of competitive telecommunications services.

In support of its request, Applicant states:

1. Applicant is a constitutional charter city existing and operating pursuant to Article VI, Sections 19 and 19(a) of the Constitution of the State of Missouri. Applicant provides utility services to the public through its Board of Public Utilities pursuant to Article XVI of

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**MISSOURI
PUBLIC SERVICE COMMISSION**

the City Charter of the City of Springfield, Missouri. In lieu of Missouri Secretary of State corporation certificates, attached hereto, marked Appendix A and incorporated herein by reference are copies of relevant provisions of Applicant's City Charter. Applicant's principal office and place of business is located at 301 East Central, P.O. Box 551, Springfield, Missouri 65801-0551.

2. All communications, notices, orders and decisions respecting this Application and proceeding should be addressed to:

Charles Brent Stewart
French & Stewart Law Offices
1001 Cherry Street
Suite 302
Columbia, Missouri 65201
(573) 499-0635

William A. R. Dalton
General Counsel
City Utilities of Springfield, Missouri
P.O. Box 551
Springfield, Missouri 65802
(417) 831-8604

3. Applicant proposes to provide to business and commercial customers within the state of Missouri: (a) local exchange telecommunications service, specifically, non-switched, dedicated point-to-point and point-to-multipoint private line telecommunications services, which both originate and terminate within an exchange; and (b) intrastate interexchange telecommunications service. Applicant will utilize its own state-of-the art fiber optic facilities, or purchase for resale, the services or facilities of other carriers in order to provide the services sought to be provided in this Application. Applicant's proposed services herein are virtually identical to the types of services which have routinely been authorized by the Commission for numerous other competitive carriers (IXCs) upon verified application without the need for evidentiary hearings (e.g. Fiber Four Corporation, Case No. TA-96-376; Kansas City Fiber Network, L.P., Case No. TA-95-221; Digital Teleport, Inc., Case No. TA-92-145). At this time Applicant is not seeking to offer or provide basic local telecommunications service or exchange access service.

EXHIBIT J

FILED

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

MAR 20 1997

MISSOURI
PUBLIC SERVICE COMMISSION

In the matter of the application of the City of Springfield,)
Missouri, through the Board of Public Utilities, for a)
certificate of service authority to provide non-switched local)
exchange and intrastate interexchange telecommunications)
services to the public within the State of Missouri and for)
competitive classification.)

Case No. TA-97-313

**SOUTHWESTERN BELL TELEPHONE COMPANY'S
REPLY TO CITY OF SPRINGFIELD'S OBJECTIONS TO INTERVENTION**

Contrary to what the City of Springfield would like the Commission to believe, this is not the standard certification case. Moreover, the City of Springfield misunderstands the concern Southwestern Bell Telephone Company (SWBT) raised in its Application to Intervene: it's not regulatory overlap, but the potential conflicting interests the City will have as regulator and competitor.

1. **This Case is Unique.** While City of Springfield seeks the standard authority to provide non-switched local exchange and intrastate interexchange telecommunications services, the City is not the standard applicant. Rather, it is a utility owned and operated by the City of Springfield. All of the applicants that have previously sought such certification have been private or publicly held companies seeking to enter the market as a new competitor. None of the other applications now pending before the Commission involve a municipally-owned utility -- nor did any of the 100 or more applications the Commission has processed and granted over the years. These issues presented by the City's application are novel and should be examined by the Commission.


2. **City of Springfield's Regulatory Authority Causes a Potential Conflict of Interest.**
Not Regulatory Overlap. City of Springfield misunderstands the concern SWBT raised in its

Application to Intervene. The issue is not whether the Commission's and the City's regulatory authority over SWBT overlap. Rather, it is whether the potential for abuse of the City's regulatory and taxing authority over competitors makes granting certification here against the public interest. The attached articles, recently published in the Springfield News-Leader, show that even the Mayor of Springfield has concerns about the potential for a conflict of interest and that these issues need to be addressed.

WHEREFORE, SWBT respectfully requests the Commission to grant its Application to Intervene.

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE COMPANY

BY 
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